

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

EARL EDWIN JACKSON,

Defendant-Appellee.

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UNPUBLISHED

August 6, 1999

No. 213230

Wayne Circuit Court—

Criminal Division

LC No. 98-003357

Before: White, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendant's motion to suppress evidence, and dismissing the case. We vacate and remand for further proceedings. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with possession of greater than fifty grams but fewer than 225 grams of cocaine, MCL 333.7403(2)(a)(iii); MSA 14.15(7403)(2)(a)(iii), and possession of marijuana, MCL 333.7403(2)(d); MSA 14.15(7403)(2)(d). At the evidentiary hearing on defendant's motion to suppress evidence on the ground that the initial stop of his vehicle was illegal, Officer Wargo of the Garden City Police Department testified that he stopped defendant's vehicle because a Law Enforcement Information Network (LEIN) check revealed that the vehicle was registered to defendant and that defendant's driver's license was suspended. When Wargo stopped defendant, defendant gave Wargo a false name, and could not produce identification. Subsequently, defendant supplied his correct name, and was arrested for driving with a suspended license. Wargo searched the passenger compartment and found marijuana. The car was impounded, notwithstanding the fact that defendant's passenger had a valid driver's license. An inventory search of the vehicle revealed cocaine.

The trial court granted defendant's motion to suppress evidence, and dismissed the case. The trial court found that the search of defendant's vehicle was based on a valid traffic stop and arrest, but concluded that the search was unreasonable under the Interim Bail Act (IBA), MCL 780.581 *et seq.*; MSA 28.872(1) *et seq.*, because defendant was not informed of his right to post bail prior to the search being conducted.

We review a trial court's findings of fact regarding a motion to suppress for clear error, and the ultimate decision de novo. *People v Darwich*, 226 Mich App 635, 637; 575 NW2d 44 (1997).

We vacate the trial court's order granting defendant's motion to suppress evidence and dismissing the case, and remand for further proceedings. The IBA does not deprive the police of the authority to search the driver and the passenger compartment of a vehicle pursuant to a lawful custodial arrest. An arrest can be processed at the police station, as long as the intrusions incident to incarceration are not imposed. The IBA does not require that a defendant be allowed to post bail at the scene. *People v Poole*, 199 Mich App 261, 264; 501 NW2d 265 (1993). In light of its finding that the search of defendant's vehicle was conducted pursuant to a valid stop and arrest, the trial court's conclusion that the failure of the police to inform defendant of his right to post interim bail prior to searching the vehicle rendered the search invalid under the IBA was erroneous. *Poole, supra*.

The inventory search exception to the warrant requirement allows an inventory search of an impounded vehicle when conducted in accordance with established departmental policy which all officers must follow. Impoundment of a vehicle is part of the community caretaking function performed by the police. The reasonableness of the impoundment depends on the existence of an established departmental policy and the absence of pretext for conducting a criminal investigation. *People v Toohey*, 438 Mich 265, 279, 284-285; 475 NW2d 16 (1991). In the instant case, an issue raised and argued below, but not decided by the trial court, was whether the impoundment and inventory search of defendant's vehicle was conducted pursuant to established departmental policy. An inventory search of an impounded vehicle must be conducted in accordance with established policy in order for the evidence obtained in such a search to be admissible. *Poole, supra*, at 265. The issue whether defendant's vehicle was impounded and searched in accordance with established policy must be decided by the trial court in the first instance.

The trial court's order granting defendant's motion to suppress evidence for the reason that the search violated the IBA and dismissing the case is vacated, and this case is remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Helene N. White

/s/ Jane E. Markey

/s/ Kurtis T. Wilder